

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1480 OF 2005
IN
WRIT PETITION NO.792 OF 2005

Mrs. Kusum Kapur ... Applicant

Vs.

Mr. Chico De Souza & Anr. ... Respondents

Mr. O.P. Soni for the applicant-petitioner.

Ms. Ranjana Parekh for respondent 1.

Mr. U.S. Patole, representative of official liquidator
is present.

CORAM: SMT. RANJANA DESAI, J.

DATED: 13TH JULY, 2005.

P.C.:-

1. On 23/3/2005, this petition was rejected by me. While rejecting the petition, I had granted three months' time to the petitioner to vacate the suit premises as it was indicated at that time that the petitioner wanted to go to the Supreme Court. The petitioner was directed to file usual undertaking in this court. I am informed that the undertaking has been filed.

2. In this civil application, the petitioner/applicant has prayed that the time to vacate the suit premises be extended.

3. I have heard the learned counsel appearing for the

parties. Ms. Parekh, the learned counsel appearing for respondent 1 has strenuously opposed the civil application. She contended that the applicant has been in illegal possession of the suit premises from the year 1974 and though time was taken to approach the Supreme Court, the applicant has not approached the Supreme Court. The learned counsel drew my attention to the rejoinder filed by the applicant and contended that one Mr. Pal, who claims to be the business partner of the applicant is in the suit premises. The learned counsel contended that the possibility of his creating an obstruction in the way of the respondents in getting back the possession cannot be ruled out and, therefore, no further time be granted.

4. The learned counsel appearing for the applicant contended that the applicant is suffering from a serious disease and, at present, she is at Gurgaon with her daughter. The applicant is arriving on 30/7/2005 and in view of her physical condition, this court should consider granting her sufficient time to vacate the suit premises. He submitted that the applicant will hand over vacant and unencumbered possession of the suit premises after the extended period.

5. In the circumstances of the case, I am not inclined to grant a longer time to vacate the suit premises. Only because a statement is made that the applicant is suffering from a serious disease, in my opinion, time to

vacate the suit premises needs to be extended for one month from today i.e. till 13/8/2005. On or before 13/8/2005, the applicant/petitioner must hand over vacant, unencumbered and peaceful possession of the suit premises to respondent 1. The learned counsel for the applicant states that the applicant shall hand over possession of the suit premises as directed by this court. The applicant should file the usual undertaking in this court within a week from her arrival in Bombay i.e. from 30/7/2005 to the effect that on or before 13/8/2005, vacant, unencumbered and peaceful possession of the suit premises will be handed over to respondent 1. A copy of the said undertaking be handed over to the learned counsel for respondent 1. It is clarified that this extension is granted only on humanitarian ground and no further extension will be granted. The applicant shall deposit usual compensation as is being deposited till today. The applicant is directed to give the intimation of the date and time of handing over the possession of the suit premises to the learned counsel for respondent 1 three days in advance.

6. Civil application is disposed of in the aforesaid terms.

(SMT. RANJANA DESAI, J.)